IP 04-1431-C H/S Dalton v Watford
Judge David F. Hamilton Signed on 1/10/06

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CARLA DALTON,	)	
	)	
Plaintiff,	)	
vs.	)	NO. 1:04-cv-01431-DFH-VSS
	)	
ALONZO WATFORD,	)	
FRANK ANDERSON,	)	
	)	
Defendants.	)	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CARLA DALTON, Plaintiff, v. ALONZO WATFORD, individually and in his official capacity as a Deputy Sheriff of Marion County, Indiana, and FRANK ANDERSON, in his official capacity as Sheriff of Marion County, Indiana, Defendants.	)	CASE NO. 1:04-cv-1431-DFH-VSS

ENTRY ON MOTION FOR SUMMARY JUDGMENT

On September 3, 2002, Marion County Deputy Sheriff Alonzo Watford arrested Carla Dalton for domestic battery of her husband Max Dalton. The supposed evidence for the battery focused on a scratch on Max Dalton's back, along with evidence of verbal conflict between the couple. Criminal charges were eventually dismissed. Carla Dalton has sued Deputy Watford in his individual and official capacities, as well as Marion County Sheriff Frank Anderson in his official capacity. Carla Dalton alleges that Watford violated her rights under the Fourth and Fourteenth Amendments to the United States Constitution by arresting her without probable cause to do so. She also alleges that Watford violated her First Amendment rights by arresting her to retaliate against her for exercising her right of free speech. She also alleges that Sheriff Anderson violated

her rights by deliberately failing to provide deputies with adequate training and support for dealing with the mentally ill subjects. In addition, Dalton asserts claims under state law for false arrest and imprisonment and for violation of her rights under the Indiana Constitution.

Defendants have moved for summary judgment on all claims. As explained below, genuine issues of fact preclude summary judgment on the core claim under the Fourth Amendment for false arrest and on the parallel state law claims. Defendants are entitled to summary judgment on all other claims.

Custom & Policy Claim: Dalton has not come forward with any evidence or applicable case law to support her claim of a policy of deliberate indifference on the part of Sheriff Anderson toward training deputies to deal with mentally ill subjects. Defendants have come forward with evidence that training is provided. Dalton has not come forward with evidence that her arrest, giving her the benefit of her testimony and all evidence in her favor, was anything more than an isolated incident. That is not sufficient to establish a policy or custom of deliberate indifference to the constitutional rights of mentally ill subjects. See *City of Canton v. Harris*, 489 U.S. 378, 389 (1989) (failure-to-train claim requires high degree of culpability and showing of causation so that liability is imposed only for deliberate decisions by local governments); *Cornfield v. Consolidated High School Dist. No. 230*, 991 F.2d 1316, 1327 (7th Cir. 1993) (affirming summary judgment

for defendant school board in failure-to-train case based on one incident). Sheriff Anderson is entitled to summary judgment on the federal claims against him.

State Constitutional Claims: Carla Dalton asserts damages claims for alleged violations of the Indiana Constitution's provisions on free speech, searches and seizures, and access to courts. Ind. Const. Art. I, §§ 9, 11, and 12. The judges of this court have consistently refused to find an implied right of action for damages under the Indiana Constitution. The federal courts have left that question of state law for the state courts to decide. See, *e.g.*, *Pearson v. Indiana High School Athletic Ass'n*, 1999 WL 33117389, *3-5 (S.D. Ind. Feb. 8, 1999) (Tinder, J.) (reviewing relevant authorities and granting motion to dismiss); accord, *Raines v. Strittmatter*, 2004 WL 2137634, *2-7 (S.D. Ind. June 29, 2004) (Tinder, J.) (updating cases and granting motion for judgment on the pleadings); *Malone v. Becher*, 2003 WL 22080737, *18-19 (S.D. Ind. Aug. 29, 2003) (Hamilton, J.) (reviewing authorities and granting motion for summary judgment); *Willits v. Wal-Mart Stores, Inc.*, 2001 WL 1028778, *15 (S.D. Ind. July 30, 2001) (McKinney, J.) (following *Pearson* and granting summary judgment).

Dalton has not provided any authority to the contrary on this issue. She points out that the decisions by my colleagues and me are not published, and of course they are not binding precedent on this question of state law. But those decisions have not been the subject of successful appeals, and they reflect our thinking on this question, which has arisen often and which can be raised in

virtually every federal civil rights case against police officers. Something more than a statement that the decisions are not binding authority would be needed to produce a change in outcome. The question is now before the Indiana Supreme Court, but that court has not yet decided the issue. See *Cantrell v. Morris*, 2005 WL 1159416 (N.D. Ind. May 17, 2005) (certifying question of law to Indiana Supreme Court), *docketed*, No. 94S00-0505-CQ-243 (Ind. May 23, 2005).

Fourth Amendment Claims: If one credits Deputy Watford's testimony, he had probable cause to arrest Carla Dalton for domestic battery. On summary judgment, of course, that is not the standard. The court must give plaintiff Dalton the benefit of the evidence favorable to her, including the benefit of all conflicts in the evidence. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986); *Abdullahi v. City of Madison*, 423 F.3d 763, 773 (7th Cir. 2005). The court may not resolve credibility issues, but must leave those questions for the jury. *Id.*

Under the applicable standard, Watford is not entitled to summary judgment either on the merits of the claims or under the doctrine of qualified immunity. If the events occurred as Carla Dalton and her husband have testified, they exchanged angry words between themselves and later with Deputy Watford, but there was no basis for believing that Carla Dalton had committed battery. Under Dalton's testimony, Watford joked with another officer about how small and trivial the supposed 10 or 12-inch "gash" on Max Dalton's back actually was. Carla Dalton Dep. at 65. Watford has testified that it was a 10 to 12-inch long

scratch. Watford Dep. at 32. Plaintiff's evidence indicates that the scratch was one millimeter deep and only 1.3 centimeters (scarcely half an inch) long, and that Max did not even know he had the scratch. Yet Watford claims that the scratch, together with the other circumstances, including statements by Max Dalton, gave him probable cause to arrest Dalton for battery. Watford Dep. at 41. Plaintiff has also contradicted Watford's testimony about whether Max Dalton was wearing a torn shirt, which was a circumstance that Watford also relied upon to justify the arrest. Carla Dalton Dep. at 69-70. The Daltons also have denied telling Watford that Carla had scratched Max. Max Dalton Dep. at 54-56.

Crediting plaintiff's evidence, as the court must at this stage, there was no complaint about any scratch or physical contact and no evidence of an intentional or knowing touching in a rude, insolent, or angry manner that resulted in bodily injury. See Ind. Code § 35-42-2-1.3 (Class A misdemeanor domestic battery). According to plaintiff, Watford told Max that he was arresting Carla Dalton because she "pissed me off." Max Dalton Dep. at 37. Based on this evidence, under the applicable standard for summary judgment, there was no probable cause to believe that Carla Dalton had committed domestic battery.

The court recognizes that the doctrine of qualified immunity gives an officer room to make reasonable but mistaken judgments about probable cause. *Saucier v. Katz*, 533 U.S. 194, 206 (2001). Under the plaintiff's version of the evidence, however, there was simply no evidence that Watford had information

that would have supported a reasonable belief that Carla Dalton had committed criminal domestic battery against Max Dalton. Under plaintiff's evidence, probable cause is not a close question that could support qualified immunity.

Fourteenth Amendment Claim: Dalton also seeks relief under the Fourteenth Amendment. She apparently means something other than simply the Fourteenth Amendment incorporation doctrine that applies the Fourth Amendment to the states. The Supreme Court made clear in *Graham v. Connor*, 490 U.S. 386, 394 (1989), that constitutional claims of excessive force in an arrest must be made under the Fourth Amendment, which applies specifically to unreasonable seizures of the person, without resorting to more general Fourteenth Amendment standards. The same reasoning applies to claims for arrests (a form of seizure) without probable cause. See *United States v. Lanier*, 520 U.S. 259, 272 n.7 (1997) (stating that a constitutional claim covered by a specific constitutional provision, such as the Fourth Amendment, must be analyzed under the standard for that specific provision and not under the rubric of substantive due process); see, *e.g.*, *McCann v. Mangialardi*, 337 F.3d 782, 786 (7th Cir. 2003) (rejecting plaintiff's Fourteenth Amendment claim that was nothing more than a recast of his Fourth Amendment claim for false arrest). Defendants are entitled to summary judgment on the Fourteenth Amendment claim.

First Amendment Claim: Dalton also claims that she was arrested for exercising her right of free speech. Her evidence is that she asked Watford for his

name and badge number, and her theory is that Watford arrested her because of this speech. This theory adds nothing to Dalton's Fourth Amendment claims. Either Watford had probable cause to arrest her or he did not. That is a question the jury will need to decide. Deputy Watford's subjective motives do not affect it. If a jury believes plaintiff's evidence, the jury might consider evidence of motivation in deciding damages. Under Ockham's Razor, however, the First Amendment claim adds nothing to the Fourth Amendment claim. Watford is entitled to summary judgment on the First Amendment claim.

State Law False Arrest and False Imprisonment: The standard for the state common law claims is the same as the federal standard under the Fourth Amendment. See *Jordan v. City of Indianapolis*, 2002 WL 32067277 (S.D. Ind. Dec. 19, 2002). Accordingly, defendants are not entitled to summary judgment on the state law claims for false arrest and imprisonment.

Conclusion: Defendants' motion for summary judgment is denied as to plaintiff's Fourth Amendment claim against Deputy Watford in his individual capacity and as to her state law claim against both defendants for false arrest and imprisonment. Defendants' motion for summary judgment is granted as to all other claims. Trial remains scheduled for February 6, 2006, with a final pretrial conference on January 27, 2006.

So ordered.

Date: January 10, 2006

DAVID F. HAMILTON, JUDGE
United States District Court
Southern District of Indiana

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